

116TH CONGRESS
2D SESSION

S. 5054

To prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2020

Mr. MERKLEY (for himself and Mr. SASSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Internet Sexual
5 Exploitation Act”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act—

8 (1) the term “Commission” means the Federal
9 Trade Commission;

10 (b) TERMS DEFINED IN SECTION 2256 OF TITLE 18,
11 UNITED STATES CODE.—For purposes of subsection
12 (a)(3), the terms “computer”, “sexually explicit conduct”,
13 and “visual depiction” have the meanings given those
14 terms in section 2256 of title 18, United States Code.

15 SEC. 3. DUTIES OF ONLINE PLATFORMS THAT HOST POR- 16 NOGRAPHY

17 (a) UPLOAD REQUIREMENTS.—

18 (1) IN GENERAL.—A covered platform shall re-
19 quire any user who uploads a pornographic image to
20 the platform to—

21 (A) verify—

(i) the identity of the user; and

(ii) that the user is not less than the minimum age required to consent to sexual

1 acts under the law of the State in which
2 the user resides; and

3 (B) upload a signed consent form from
4 each individual appearing in the pornographic
5 image that includes—

6 (i) the name and electronic signature
7 of the individual;

8 (ii) a statement that the consent is for
9 distribution of the specific pornographic
10 image; and

11 (iii) the geographic area for which the
12 individual consents to distribution of the
13 pornographic image.

14 (2) EFFECTIVE DATE; APPLICABILITY.—Para-
15 graph (1) shall—

16 (A) take effect on the date that is 14 days
17 after the date of enactment of this Act; and

18 (B) apply to any pornographic image
19 uploaded to a covered platform before, on, or
20 after that effective date.

21 (b) MEANS OF REMOVAL.—

22 (1) NOTICE.—A covered platform shall display
23 a notice on the website or mobile application of the
24 platform, in the form of a prominently visible ban-
25 ner, that provides instructions on how an individual

1 or an authorized representative of an individual, or
2 a law enforcement officer, can request removal of a
3 pornographic image from the platform, including
4 through the hotline required under paragraph (2), if
5 the individual appears in the pornographic image
6 and has not consented to the pornographic image
7 being uploaded to the platform.

8 (2) HOTLINE.—

1 form without the consent of an individual who ap-
2 pears in the pornographic image, the platform shall
3 remove the pornographic image from the platform as
4 quickly as possible, and in any event not later than
5 2 hours after receiving the notice.

6 (c) PROHIBITION ON DOWNLOADS.—On and after the
7 date that is 90 days after the date of enactment of this
8 Act, a covered platform may not permit the download to
9 a retrievable data file of any pornographic image from the
10 platform.

11 (d) BLOCKING RE-UPLOADS.—On and after the date
12 that is 180 days after the date of enactment of this Act,
13 a covered platform shall block any pornographic image
14 that has been removed from the platform in accordance
15 with this section from being re-uploaded to the platform.

16 (e) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

18 (1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this section shall be treated
19 as a violation of a rule defining an unfair or decep-
20 tive act or practice under section 18(a)(1)(B) of the
22 Federal Trade Commission Act (15 U.S.C.
23 57a(a)(1)(B)).

24 (2) POWERS OF COMMISSION.—

(i) organizations not organized to carry on business for their own profit or that of their members; and

12 SEC. 4. DATABASE.

13 (a) ESTABLISHMENT.—Not later than 90 days after
14 the date of enactment of this Act, the Attorney General
15 shall establish a database of individuals who have indi-
16 cated that they do not consent to the uploading to any
17 covered platform of any pornographic images in which the
18 individuals appear.

19 (b) PERSONALLY IDENTIFIABLE INFORMATION.—
20 The Attorney General shall protect the personally identifi-
21 able information of any individual listed in the database
22 established under subsection (a).

23 (c) VERIFICATION BY PLATFORMS REQUIRED.—Be-
24 fore allowing a pornographic image to be uploaded to a
25 covered platform, the platform shall ensure that no indi-

1 vidual who appears in the pornographic image is listed in
2 the database established under subsection (a).

3 (d) CIVIL PENALTY.—

4 (1) IN GENERAL.—The Attorney General shall
5 impose a civil penalty on any covered platform that
6 violates subsection (c) in an amount of not more
7 than \$1,000 for each day or fraction thereof during
8 which a pornographic image is hosted on the plat-
9 form in violation of that subsection.

10 (2) USE OF FUNDS.—The Attorney General
11 shall use the proceeds of a civil penalty imposed
12 under paragraph (1) for services to individuals
13 whose image is uploaded to a covered platform in
14 violation of this Act.

15 (e) REGULATIONS.—Not later than 90 days after the
16 date of enactment of this Act, the Attorney General shall
17 promulgate regulations specifying—

18 (1) where the database established under sub-
19 section (a) will be housed; and

20 (2) an entity, whether an office of the Depart-
21 ment of Justice or a nonprofit organization that re-
22 ceives a grant from the Department, that can con-
23 nect individuals listed in the database with services,
24 including mental health counseling, medical treat-
25 ment, and legal services.

1 **SEC. 5. PRIVATE RIGHT OF ACTION.**

2 (a) IN GENERAL.—If a user of a covered platform
3 uploads a pornographic image of an individual to the plat-
4 form without the consent of the individual, the individual
5 may bring a civil action against the user in an appropriate
6 district court of the United States.

7 (b) STRICT LIABILITY.—In a civil action brought
8 against a user of a covered platform under subsection (a),
9 unless the user can prove bona fide consent from the plain-
10 tiff, the user shall be strictly liable to the plaintiff.

11 **SEC. 6. RELATION TO COMMUNICATIONS DECENCY ACT.**

12 Nothing in this Act shall be construed to affect sec-
13 tion 230 of the Communications Act of 1934 (47 U.S.C.
14 230).

